

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

MICHAEL WAYNE POWELL,

Defendant.

CR 16-34-M-DLC
CR 16-35-M-DLC

ORDER

United States Magistrate Judge Jeremiah C. Lynch entered Findings and Recommendation in this matter on December 12, 2016. Neither party objected and therefore they are not entitled to *de novo* review of the record. 28 U.S.C. § 636(b)(1); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003). This Court will review the Findings and Recommendation for clear error. *McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981). Clear error exists if the Court is left with a “definite and firm conviction that a mistake has been committed.” *United States v. Syrax*, 235 F.3d 422, 427 (9th Cir. 2000).


Judge Lynch recommended this Court accept Michael Wayne Powell’s guilty plea after Powell appeared before him pursuant to Federal Rule of Criminal Procedure 11, and entered a plea of guilty to one count of conspiracy to distribute

methamphetamine in violation of 21 U.S.C. § 846 (Count I), as set forth in the Indictment in CR 16-34-M-DLC. Defendant further admits to the forfeiture allegation. In exchange for Defendant's plea, the United States has agreed to dismiss Count II of the Indictment in CR 16-34-M-DLC and to dismiss the Indictment in CR 16-35-M-DLC.

I find no clear error in Judge Lynch's Findings and Recommendation (Doc. 29) in CR 16-34-M-DLC and (Doc. 16) in CR 16-35-M-DLC, and I adopt them in full, including the recommendation to defer acceptance of the Plea Agreement until sentencing when the Court will have reviewed the Plea Agreement and Presentence Investigation Report.

Accordingly, IT IS ORDERED that Michael Wayne Powell's motions to change plea (Doc. 19) in CR 16-34-M-DLC and (Doc. 8) in CR 16-35-M-DLC are GRANTED and Michael Wayne Powell is adjudged guilty as charged in Count I of the Indictment in CR 16-34-M-DLC.

DATED this 5th day of January, 2017.



Dana L. Christensen, Chief District Judge
United States District Court